

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE STURGIS,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Appellee.

§

§

§ No. 434, 2022

§

§ Court Below—Superior Court
§ of the State of Delaware

§

§ Cr. ID Nos. 1606000326 &
§ 2101007997 (S)

§

§

Submitted: February 23, 2023

Decided: March 10, 2023

Before **SEITZ**, Chief Justice; **VALIHURA** and **TRAYNOR**, Justices.

ORDER

After consideration of the notice to show cause and the response, it appears to the Court that:

(1) On November 16, 2022, the appellant, George Sturgis, filed a notice of appeal from the Superior Court’s October 14, 2022 order sentencing him for a violation of probation (“VOP”). A timely notice of appeal should have been filed on or before November 14, 2022.¹

¹ Del. Supr. Ct. R. 6(a) (providing that the notice of appeal must be filed within thirty days); Del. Supr. Ct. R. 11(a) (providing that if the last day of the time period prescribed by the Rules falls on the weekend or a holiday then the time period runs until the end of the next day the Clerk’s office is open).

(2) The Senior Court Clerk issued a notice directing Sturgis to show cause why this appeal should not be dismissed as untimely filed. In his response to the notice to show cause, Sturgis states that he does not have control over how the Department of Correction processes his mail and includes documentation of medical conditions he suffers.

(3) Time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, an untimely appeal cannot be considered.⁵

(4) Sturgis has not shown that his failure to file a timely notice of appeal is attributable to court-related personnel.⁶ Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal, and this appeal must be dismissed.⁷

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³ Supr. Ct. R. 10(a).

⁴ *Smith v. State*, 47 A.3d 481, 486-87 (Del. 2012).

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁶ See, e.g., *Washington v. Div. of Fam. Servs.*, 2011 WL 6201770, at *1 (Del. Dec. 13, 2011) (dismissing untimely appeal where the appellant said she had been in ill health, but had not shown that her failure to file a timely notice of appeal was attributable to court-related personnel).

⁷ Even if the appeal was timely, Sturgis's opening brief primarily challenges his 2019 and 2021 guilty pleas, which he cannot collaterally attack in this appeal of his VOP. *Ewing v. State*, 2023 WL 315334, at *1 (Del. Jan. 18, 2023). In addition, Sturgis does not dispute that he violated his

NOW, THEREFORE, IT IS ORDERED, under Supreme Court Rule 29(b),
that this appeal is DISMISSED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

probation, and the VOP sentence does not exceed the Level V time remaining on his sentence. 11
Del. C. § 4334(c); Pavulak v. State, 880 A.2d 1044, 1046 (Del. 2005).